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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,806	07/07/2004	Martin Pemberton		8289

24271 7590 04/06/2006

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EXAMINER
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WALTERS, JOHN DANIEL

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/500,806		PEMBERTON ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	John D. Walters		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 23 – 27 have been examined. Claims 1 – 22 have been cancelled by Applicant.

#### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Margolis et al. (5,390,118). Margolis discloses an automatic lateral guidance control system comprising:

- a route marker (Fig. 1, item 34) disposed along a prescribed route (Fig. 1, item 28);

- wherein said route is subdivided into sequential segments each accorded a respective steering instruction (Fig. 9);
- said route marker comprising multiple discrete elements, i.e. common road reflectors (column 4, lines 43 – 47);
- wherein said multiple discrete marker elements are configured for a collective response by 3 out of 4 markers (Fig. 12(d)) with an on-board vehicle arbitrator to mediate (Fig. 11);
- said route marker comprising a continuous element , i.e. painted reflective stripes (column 4, lines 49 – 52);
- said route marker being responsive to interrogation by a vehicle mounted transducer (column 6, lines 3 – 6) to provide route guidance and steering direction (column 5, lines 62 – 66) to a steering actuator (column 6, line 17);
- said interrogation relays route information (column 6, lines 3 – 6).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margolis et al. (5,390,118) in view of Tamura et al. (6,269,897) and Lemelson et al. (5,390,118). Margolis discloses an automatic lateral guidance control system as

described above. Margolis does not disclose the use of a backup system for steering control. Tamura, however, discloses a steering control device comprising:

- a secondary steering module (Fig. 1, item 12 & Fig. 3);
- expressed as sequential instructions (column 2, lines 62 – 64);
- configured as an emergency backup (column 6, lines 18 – 34).

In regards to claim 17, while Tamura does not explicitly state that the route information is stored in table form, said data is stated as being located within “map data”. As following a map is, in effect, sequential instructions, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to store said data in a multitude of forms including physical maps, tables, or lists.

Margolis in view of Tamura does not disclose an automated braking system. Lemelson, however, discloses a collision avoidance system comprising:

- a facility for triggering emergency braking (column 9, lines 49 – 55).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the emergency braking system of Lemelson with the guidance system of Margolis in view of Tamura in order to provide automated speed control to minimize or avoid an impact, which is detected by said system, which is not acted upon by an operator.

In regards to claim 27, while Margolis does not disclose the use of a “cable” he does disclose the use of an uninterrupted route marker on the road surface. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to

make use of an embedded cable in order to protect said route marker from wear and damage that could occur when exposed to elements and vehicles.

***Response to Arguments***

Applicant's arguments, see page 13, filed 2/20/2006, with respect to 35 U.S.C. § 112 have been fully considered and are persuasive. The rejection of 11/21/2005 has been withdrawn.

Applicant's arguments, see page 13, filed 2/20/2006, with respect to the rejection(s) of claim(s) 1 – 19, 21 and 22 under 35 U.S.C. § 102 and 35 U.S.C. § 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a re-examination of the prior art of record in regards to Applicant's amended claims.

Applicant's arguments filed 2/20/2006 have been fully considered but they are not persuasive.

While Examiner appreciates Applicant's detailed background information within pages 13 – 15 of Amendment A, it does not overcome the rejection based on the prior art of record.

Applicant's discussion of the prior art of record is thorough but fails to disclose structural differences between Applicant's invention and the prior art of record. The

above rejection list the structures within the prior art of record which meet the limitations contained within Applicant's claims. Motivation is provided which would cause one of ordinary skill in the art at the time of applicant's invention to envision such a combination. Applicant appears to be arguing a difference in intended use between the prior art of record and the invention as described by Applicant's claims. The structure listed within the above rejection meets the physical limitations of Applicant's claims and is capable of the intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Tachibana et al. (5,815,825) disclose a vehicle guidance system;
- Akutsu et al. (5,987,374) disclose a vehicle traveling guidance system;
- Cofino et al. (6,288,629) disclose a method of using radio frequency transponders;
- Bush (5,708,427) discloses a vehicle in-lane positional indication/control;
- Mio et al. (6,081,756) disclose a vehicle running management system;
- Fujii (5,315,295) discloses a vehicle speed control system;

- Bowers et al. (2001/0000019) disclose an inventory system using articles with RFID tags;
- Barrett et al. (5,331,561) disclose an active cross path position correlation device;
- Schreder (5,504,482) discloses an automobile navigation guidance, control and safety system;
- Schuman et al. (6,161,071) disclose a method and system for an in-vehicle computing architecture;
- Dance et al. (6,230,097) disclose an accurate vehicle navigation system;
- Honkura et al. (6,336,064) disclose a magnetic apparatus for detecting position of vehicle.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDW



John D. Walters  
Examiner  
Art Unit 3618



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